

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

Socket Telecom, LLC,)	
)	
Complainant,)	
)	
v.)	Case No. TC-2007-0341
)	
CenturyTel of Missouri, LLC and)	
Spectra Communications Group, LLC,)	
d/b/a CenturyTel,)	
)	
Respondents.)	

RESPONDENTS' STATEMENT OF POSITION

COME NOW Respondents, CenturyTel of Missouri, LLC ("CenturyTel") and Spectra Communications Group, LLC, d/b/a CenturyTel ("Spectra") (collectively "Respondents"), pursuant to the Commission's *Order Setting Procedural Schedule* issued on April 18, 2007, and for their *Statement of Position*, respectfully submits the following:

Since the parties were unable to reach agreement on the *List of Issues*, and made separate filings of same on June 28, 2007, Respondents are here providing their Statement of Position in three parts.

RESPONDENTS' ISSUE

Issue 1. *Under applicable Federal law, Federal Communications Commission ("FCC") rules, regulations and orders, is CenturyTel or Spectra required to fulfill the two port requests specifically at issue in this case when the customer is physically relocating outside the customer's exchange?*

Respondents' Position: No. The two porting requests at issue in this proceeding involve customers physically relocating outside their exchanges. As such, these porting requests constitute "location portability", as defined in 47 C.F.R. Section 52.21(j).

“Location portability” often also is referred to as “geographic portability”. There is a very important difference between “number portability”--as defined in 47 U.S.C. Section 153(30) and 47 C.F.R. 52.21(l)--and “location portability”. Currently applicable federal statutes, FCC rules, regulations and orders do not place any legal obligation upon Respondents in wireline-to-wireline settings to provide “location portability”. In fact, the FCC thus far specifically and repeatedly has declined to require “location portability” in wireline-to-wireline situations. This was so at the time the porting requests were made, at the time the Complaint was filed, and continues to be so as of today. As such, Respondents cannot lawfully be required to fulfill the two porting requests at issue or to fulfill any similar porting requests on the basis of currently applicable federal law. (Furchtgott-Roth Rebuttal, pp. 7-14; Furchtgott-Roth Surrebuttal, pp. 1-2, 10-11, 13-15; and Voight Rebuttal, pp. 18-20),).

As this is the fundamental, threshold legal issue in this case, and must as a matter of law be resolved in favor of Respondents, the Commission should dispose of this proceeding on that basis and need not address the additional issues raised by the other parties. Nevertheless, in the interest of providing a full response, and because Respondents necessarily had to address these additional issues as alternative grounds for Respondents’ denying the porting requests due to the pre-filed testimony of the other parties, Respondents will state their positions on same.

STAFF'S ISSUES

Issue 2 (a): *Is CenturyTel required to port the telephone numbers in question to Socket?*

Respondents' Position: No. Respondents are not obligated by any currently applicable federal requirements to port the telephone numbers in question. See Respondents' Position to Respondents' Issue 1 above. With respect to any additional legal obligations which might be imposed by virtue of the Interconnection Agreements ("ICAs"), Respondents state that they are not required under the terms of their ICAs to port the telephone numbers in question. Any ICA language respecting "industry agreed upon practices" or "industry standards", which by the terms of the ICAs are applicable only to the limited purposes of the use of LRN or the porting of DID numbers, does not somehow override the preeminent ICA language limiting Respondents' obligations to compliance with applicable federal requirements. (Smith Surrebuttal, pp. 8-13; Furchtgott-Roth Surrebuttal, pp. 4-10; ICA Scope and Intent; Article II, Sections 1.8, 1.10 and 1.75; Article III, Sections 13.0, 35.0 and 50.0; Article XII, Section 1.0 and 1.1.)

Moreover, at the time the porting requests were made, at the time this Complaint was filed, as well as currently, there are no "industry agreed upon practices" or "industry standards" that exist with respect to "location portability". Even if there were, such practices and standards can only be determined at the national, as opposed to the individual state level. (Furchtgott-Roth Surrebuttal, p. 8.) Any decision by this Commission as to what may or may not constitute "industry agreed upon practices" or "industry standards" is wholly improper in the context of this limited Complaint proceeding if for no other reason than other incumbent local exchange carriers are not

even parties to the case and cannot provide direct, competent and substantial record evidence upon which the Commission can base its decision, even with respect to this issue within the state of Missouri.

Issue 2(b): *Is CenturyTel required to transport the traffic in question to a single Point of Interconnection?*

Respondents' Position: Under the terms of the ICAs, each Party is responsible for transporting traffic to the Point of Interconnection (POI), provided that the POIs are established in accordance with the agreements. (Smith Rebuttal, p. 30; Smith Surrebuttal, pp. 32-33; ICA Article V, Section 4.)

COMPLAINANT'S ISSUES

Issue 1. *Does federal law require CenturyTel to fulfill the number port orders specifically at issue in this case and similar orders submitted since the filing of the complaint and into the future?*

Respondents' Position: No. See Respondents' Position to Respondents' Issue 1 above.

Issue 2. *Do the Socket/CenturyTel interconnection agreements require CenturyTel to fulfill the number port orders specifically at issue in this case and similar orders submitted since the filing of the complaint and into the future?*

Respondents' Position: No. See Respondents' Position to Staff's Issue 2(a) above.

Issue 3. *Are network capacity issues grounds for denial of a number port order?*

Respondents' Position: Yes, in addition to the grounds of "location portability" discussed above. (Smith Rebuttal, pp. 15, 18, 25).

Issue 4. *Is Socket required to have a block of numbers assigned to it for a rate center before CenturyTel has to fulfill number port orders from Socket for that rate center?*

Respondents' Position: Yes, in addition to the grounds of "location portability" discussed above. The Complainant is obligated under Federal law to have numbering resources or facilities in the rate center. (Smith Surrebuttal, pp. 30-31; *U.S. Telecom Assn. v. FCC*, 400 F.3d 29, 32 C.A.D.C. 2005 (March 11, 2005) ("Under the *Second Order*, wireline-to-wireline number portability was 'limited to carriers with facilities or numbering resources in the same rate center'"), *citing*, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, *Telephone Number Portability*; CTIA Petitions for Declaratory Ruling on Wireline-Wireless Porting Issues, paragraph 7, 18 F.C.C.R. 23, 697, 23, 700 (2003) (*Intermodal Order*) (citing the *Second Order's* adoption of the NANC recommendations).

WHEREFORE, Respondents request the Commission limit its hearing solely on Respondents' Issue 1, find in favor of Respondents thereon, and dismiss the Complaint.

Respectfully submitted,

/s/ **Charles Brent Stewart**

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CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing document has been hand-delivered, transmitted by electronic mail or mailed, First Class, postage prepaid, to the following parties on the 3rd day of July, 2007.

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